IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.559 OF 1991
With
CROSS OBJECTION ST. NO. 31894/91

The State of Maharashtra. ...Appellant.

Versus.

Shri. Manikchand Gulabchand Jain....Respondent.

Mrs. G. P. Mulekar, AGP for State/appellant.

Shri. S.M. Gorwadkar, for the respondent.

CORAM: S.B. MHASE &
S. R. SATHE, JJ.

DATE:OCTOBER 3, 2006.

P.C.

1. This appeal is directed against the judgment passed by Joint Civil Judge, Senior Division, Alibag, Raigad, on 20-06-1990, in Land Acquisition Reference No. 9 of 1985, whereby the enhanced amount of compensation was allowed by the Joint Civil Judge, Senior Division, to the extent that the appellant shall pay amount of Rs. 13,05,828-66 ps, to the respondent.

It is further directed that the appellant shall pay interest at the rate of Rs. 15% per annum, as per Section 28 of the Land Acquisition Act on the amount of Rs. 7,39,846-80 ps, from the date of the order till realisation of the whole amount. Said judgment of the Joint Civil Judge, Senior Division, Alibag, is challenged in this appeal.

2. The land of the respondent was acquired for New Bombay Project which is situated in village Kolhekar Tal. Panvel, District : Raigad, Survey No. 478, Hissa No. 1 to 2 Admeasuring 17,270 sq. mtrs, Land Acquisition Officer had granted compensation at the rate of Rs.2/- per sq. mt, and thus, granted total compensation of Rs. 1,06,692-40 ps, inclusive of solitium at the rate of 30% and additional compensation amount. Reference Court considered the case of respondent-claimant and also considered the evidence and decision of the various Land References and have come to the conclusion that Rs.16/- per sq. mt, is just and proper market vaklue of the land. The learned Counsel for the appellant vehemently tried to argue the matter. However, point is no more res-integra. The

similar case has been decided by the Division Bench of this Court and the lands were put in to four categories and the market price was fixed ranging from Rs. 15/- to Rs. 28/-, based on distance of land from High way. We follow the same rate as was fixed in First Appeal No. 17 of 1982 decided by Shri. Rebello and Shri. S.R. Sathe, JJ, on 31-03-2004,since one of the Member of this Bench is also a Member of that Bench. We have gone through the said judgment again. There is no reason to distinguish facts of this case to the facts involved in this case. Rs.16/- per sq. mt, enhanced compensation fixed by the Reference Court appears to be just and proper.

3. The learned Counsel for the appellant further tried to point out issue of limitation. However,she miserably failed to satisfy to this Court that as to how the Reference is not within limitation. Therefore, point of limitation is rejected. There is no substance in appeal and therefore, we dismiss the appeal.

4. Learned Counsel Shri. Gorwadkar submitted that compensation be enhanced to Rs.20/- per sq. mt,and

relied upon the above referred judgment of first appeal. We have gone through evidence and have found that there is no evidence available to show the distance of acquired land from High-Way. Evidence only shows that the acquired land is located in the vicinity of Highway. Therefore, we find that the rate of Rs. 16/- per sq. mt, fixed by Reference Court is proper. We do not find any substance in cross objection. We, therefore, hereby dismiss the cross objection filed by the respondent.

5. We accordingly dismiss appeal and cross objection. On the facts of case, parties to bear costs of appeal and cross objection respectively.

(S.R.SATHE, J.) (S.B. MHASE, J.)

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